

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES A. BUCHANON,

Plaintiff,

vs.

**Case No.: 2:16-cv-279
JUDGE GEORGE C. SMITH
Magistrate Judge Jolson**

GARY C. MOHR, et al.,

Defendants.

ORDER

On September 8, 2016, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Defendants' Motion to Dismiss be granted and that Plaintiff's motions for leave to amend be denied for futility. (*See Report and Recommendation*, Doc. 15). The parties were advised of their right to object to the *Report and Recommendation*. This matter is now before the Court on Plaintiff's Objections to the Magistrate's Report and Recommendation. (Doc. 16). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

The objections present the same issues presented to and considered by the Magistrate Judge in the *Report and Recommendation*. Plaintiff continues to object and argue that he has been refused the appropriate medical treatment for his condition—Hepatitis C. However, Plaintiff has not been denied medical care all together. In fact, he stated that he has received “regular scheduled check-ups concerning hep. C virus.” (Doc. 3 at 4). Plaintiff has alleged violations of his rights under the Eight and Fourteenth Amendment for refusing to provide him a specific treatment for his Hepatitis C. However, as the Magistrate Judge correctly concluded, a

different of opinion on the type of care he should receive does not support an Eighth Amendment claim. *See DeFreeze v. Zuberi*, 39 F. App'x 137, 139 (6th Cir. 2002) (“[A] prisoner’s difference of opinion regarding treatment does not rise to the level of an Eighth Amendment violation.”). Accordingly, Plaintiff has failed to state a plausible constitutional claim. Therefore, for the reasons stated in detail in the *Report and Recommendation*, this Court finds that Plaintiff’s objections to the *Report and Recommendation* are without merit and are hereby **OVERRULED**.

The September 8, 2016 *Report and Recommendation* (Doc. 15) is hereby **ADOPTED** and **AFFIRMED**. The Clerk shall remove Documents 7, 11, 12, 15, and 16 from the Court’s pending motions list and enter final judgment in favor of Defendants.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT